

MONTANA LEGISLATIVE HISTORY

Chapter 142 19 23

Bill H 329 S _____ Original bill & history ____C

H. Committee on Judiciary

Hearing Date(s) Jan 25 ✓C

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_____C

Date Out _____C

S. Committee on Judiciary

Hearing Date(s) Feb 15 ✓C

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_____C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____

Report _____

January 29, 1973

JUDICIARY COMMITTEE

The fifteenth meeting of the House Judiciary Committee was called to order in Committee Room 436 of the Capitol Building at Helena, Montana on Monday, January 29, 1973 at 9:00 a.m. Representative John C. Hall, Chairman, presided. All members were present except Representative Warfield, absent, excused.

HOUSE BILL 306 Representative James H. Burnett, Carbon, the sole sponsor of bill, stated he was very much concerned about the infringement of executive branch into our legislative process. Representative Burnett feels this bill would not infringe on governor's rights but would allow legislature to control a little more the decisions of the governor. There is nothing in laws presently that gives governor right to do some things and he could, if challenged, be taken to civil court.

Considerable discussion ensued, both during the hearing and when the bill was up for consideration. Representative Towe moved bill DO NOT PASS. Representative Lucas made a substitute motion that the bill BE LAID ON TABLE. Representative Towe withdrew his motion and Representative Brown seconded motion bill BE LAID ON TABLE. Motion carried with Representatives Greely, Baeth and Hall voting no.

HOUSE BILL 384 Representative John F. Tierney, Cascade, feels this particular piece of legislation pertaining to safe deposit boxes and inventory of them is long overdue. Feels the state is losing money that should come to the state if knew, through inventory, what was in the safety deposit box and could tax contents. No opponents to this bill. Considerable discussion ensued. Representative Towe moved bill be passed for today. Representative Yardley seconded. Motion passed unanimously to pass bill for today.

HOUSE BILLS 376, 377, 378, Chairman Hall summarized these bills
379, 380, 381 and 382. as a group, stating they are the usual
invalidating acts and that he and
Representative Lucas sponsored them.

HOUSE BILL 376 Representative Lucas moved DO PASS. Representative Yardley seconded and passed unanimously.

HOUSE BILL 377 Representative Lucas moved DO PASS. Representative Towe seconded. Motion passed unanimously.

HOUSE BILL 378 Representative Lucas moved DO PASS. Representative Towe seconded. Motion passed unanimously.

HOUSE BILL 379 Representative Lucas moved DO PASS. Representative Towe seconded. Motion passed unanimously.

SENATE JUDICIARY COMMITTEE---February 19, 1973

The committee was called to order by Chairman Luke McKeon. All members were present. Repre. Brand spoke to the committee on the following: HB 70, 175, 102. HB 523, scheduled for Tuesday's meeting was also discussed to make it convenient for Representative Brand.

The following action on bills was taken:

- HB 318 Senator Turnage moved this bill be concurred in; Senator Harrison seconded the motion; and the committee voted this bill BE CONCURRED IN.
- HB 376 Senator Turnage moved this bill be concurred in; Senator Gilfeather seconded; and the committee voted this bill BE CONCURRED IN.
- HB 377 Senator Turnage moved this bill be concurred in; Senator Gilfeather seconded the motion; and the committee voted this bill BE CONCURRED IN.
- HB 378 Senator Turnage moved that this bill be concurred in; Senator Gilfeather seconded; and the committee voted this bill BE CONCURRED IN.
- HB 379 Senator Turnage moved this bill be concurred in; Senator Harrison seconded the motion; and the committee voted this bill BE CONCURRED IN.
- HB 380 Senator Turnage moved this bill be concurred in; Senator Harrison seconded the motion; and the committee voted this bill BE CONCURRED IN.
- HB 381 Senator Gilfeather moved this bill concurred in; Senator Turnage seconded the motion; and the committee voted this bill BE CONCURRED IN.
- HB 382 Senator Gilfeather moved this bill be concurred in; Senator Moore seconded the motion; and the committee voted this bill BE CONCURRED IN.
- HB 102 Senator Turnage moved this bill be not concurred in; Senator Harrison seconded the motion; and the committee voted this bill BE NOT CONCURRED IN.
- HB 70 Senator Turnage moved this bill be concurred in; Senator Harrison seconded the motion; and the committee voted this bill BE CONCURRED IN.

Luke McKeon, Chairman

ment district or any other political or governmental subdivision of the state of Montana, and shall also include the state board of education, the state board of examiners, the state water conservation board, the state highway commission or any other governmental agency of this state.

(2) The term "bonds" includes bonds, notes, warrants, debentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim certificates and all instruments or obligations evidencing or representing indebtedness, or evidencing or representing the borrowing of money, or evidencing or representing a charge, lien or encumbrance on specific revenues, income or property of a public body, including all instruments or obligations payable from a special fund.

Section 3. All bonds heretofore issued by any public body of this state, and all proceedings heretofore taken for the authorization and issuance of such bonds, for the levy, establishment, pledge and appropriation of taxes, special assessments and other charges and revenues to pay such bonds, and for the sale, exchange, execution and delivery thereof, are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power (other than constitutional) of such public body, or the governing board or commission or officers thereof, to authorize and issue such bonds, or to sell, exchange, execute or deliver the same, and notwithstanding any defects or irregularities (other than constitutional) in such proceedings or in such sale, exchange, execution or delivery, and bonds of such public bodies, whether heretofore issued or hereafter issued under the authority of proceedings heretofore taken, are and shall be binding, legal, valid and enforceable obligations of such political body.

Section 4. This act shall not apply to or affect any action or appeal instituted on or before January 1, 1973, in which the validity of any such proceedings or of any such bonds is at issue.

Section 5. All acts and parts of acts in conflict herewith are repealed.

Section 6. This act is effective on its passage and approval.

Approved: March 5, 1973.

CHAPTER NO. 146

An Act to Validate Records of Court Proceedings Prior to January 1, 1973, Containing Defects, Omissions, Informalities or Irreg-

ularities in Obtaining a Judgment or Decree Affecting Real Property, in Which Time for Appeal Has Expired; Providing That Duly Certified Copies of Such Judgment or Decree May Be Read in Evidence with the Same Effect as Judgments or Decrees Duly and Regularly Obtained, Recorded and Entered.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Any judgment or decree of any court of this state affecting real property, provided that no action is now pending to set aside any such judgment or decree, which was, prior to January 1, 1973, copied into the proper book, kept in the office of the clerk of the district court, and certified copy of which judgment or decree was, previous to the date this act takes effect, recorded in the proper book, kept in the office of the county clerk and recorder, shall be deemed to impart, after that date, notice of its contents to subsequent purchasers and encumbrancers, notwithstanding any defect, omission, informality or irregularity in any of the court proceedings in the action in which such judgment or decree was entered and obtained, if time for appeal in the case has expired, and such judgment or decree shall not be deemed invalidated by reason of any such defect, omission, informality or irregularity; but nothing herein shall be deemed to affect the rights of purchasers or encumbrancers previous to that date. Duly certified copies of such judgment or decree, or of the record thereof, may be read in evidence, with like effect as copies of a judgment or decree duly and regularly obtained and recorded and entered.

Approved: March 5, 1973.

CHAPTER NO. 147

An Act Validating Certain Instruments Affecting Real Property and which were Erroneously Executed or Acknowledged Prior to January 1, 1973; Imparting Notice by Recording Thereof; and Providing that Duly Certified Copies Thereof May Be Read In Evidence with like Effect as Copies of an Instrument Duly Acknowledged and Recorded.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Any instrument affecting real property, provided no action is now pending to set such instrument aside which was, previous to January 1, 1973, copied into the proper book kept in the office of the county clerk and recorder, shall be deemed to impart, after that date, notice of its contents to subsequent purchasers and encumbrancers, notwithstanding any defect, omission

or informality in the execution of the instrument or in the certificate of acknowledgment thereof, or the absence of any such certificate; and all such instruments heretofore acknowledged by the vice president and assistant secretary of any corporation, or by either of them, or other person duly authorized by resolution by such corporation executing the same on behalf of the corporation, and recorded, shall be valid and shall have the same force and effect as though acknowledged by the president or secretary; but nothing herein shall be deemed to affect the rights of purchasers or encumbrancers previous to that date. Duly certified copies of the record of any such instrument may be read in evidence, with like effect as copies of an instrument duly acknowledged and recorded.

Approved: March 5, 1973.

CHAPTER NO. 148

An Act to Validate and Confirm Sales or Dispositions Heretofore Made or Attempted to be Made by any County of any Property in Which Such County Had or Claimed any Right, Title or Interest, and all Instruments of Transfer or Conveyance Heretofore Made or Executed by any County, and to Declare that all Such Sales, Dispositions and Instruments have Vested in the Grantee or Purchaser, as of the Date Thereof, all Right, Title and Interest of the County in and to the Property Described or Covered.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. All sales or dispositions heretofore made or attempted to be made by any county of any property in which such county had or claimed any right, title or interest are hereby validated and confirmed, and all instruments of transfer or conveyance heretofore made or executed by any county are hereby validated and confirmed, and all such sales, dispositions and instruments are hereby declared to have vested in the grantee or purchaser, as of the date thereof, all right, title, estate and interest of such county in and to the property described or covered.

Approved: March 5, 1973.

CHAPTER NO. 149

An Act to Amend Section 75-6808, R.C.M. 1947, to Allow All Classes

of School Districts to Contract Without Letting Bids For Less Than Four Thousand Dollars (\$4,000).

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-6808, R.C.M. 1947, is amended to read as follows:

"75-6808. **Pecuniary interests, letting contracts and calling for bids, under certain circumstances.** It shall be unlawful for any trustee to (1) have any pecuniary interest, either directly or indirectly, in the erection of any school building, or for warming, ventilating, furnishing, or repairing the same, or (2) be in any manner connected with the furnishing of supplies for the maintenance and operation of the schools, or (3) be employed in any capacity by the school district of which he is trustee.

Whenever the estimated cost of any building, furnishing, repairing or other work for the benefit of the district, or purchasing of supplies for the district, exceeds the sum of four thousand dollars (\$4,000.00), the work done, or the purchase made shall be by contract. Each such contract must be let to the lowest responsible bidder after advertisement for bids. Such advertisement shall be published in the newspaper which will give notice to the largest number of people of the district as determined by the trustees. Such advertisement shall be made once each week for two consecutive weeks and the second publication shall be made not less than five (5) days nor more than twelve (12) days before consideration of bids. Any contract not let pursuant to this section shall be void.

In all cases where bidding is required, the trustees shall award the contract to the lowest responsible bidder except that the trustees shall have the right to reject any or all bids.

With regard to contracting for work or supplies, the board of trustees of a community college district shall be subject to the provisions of section 75-8118."

Section 2. Whenever any law of this state provides a limitation upon the amount of money that a school district can expend upon any public work or construction project without letting such public work or construction project to contract under competitive bidding procedures, a school district shall not circumvent such provision by dividing a public work or construction project or quantum of work to be performed thereunder which by its nature or character is integral to such public work or construction project, or serves to accomplish one of the basic purposes or functions thereof, into several contracts, separate work orders or by any similar device. This section shall apply not only where the public work or construction project is divided into several projects